

11-48004

1198010003
Clementes
SF 1 tec H

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

In Re:) IN CHAPTER 7 PROCEEDINGS
CHEMETCO, INC.)
Debtor.) BK 01-34066
)
)

COPY

NOTICE OF MOTION TO PAY SECURED CREDITOR AND ALLOCATE FUNDS

TO ALL CREDITORS AND OTHER PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN that Donald M. Samson, trustee, has filed a Motion to Pay Secured Creditor and Allocate Funds, a copy of which is attached hereto. Said motion provides for the distribution of revenues from the sale of:

Approximately 3,500 metric tons of mixed fines pursuant to notice dated 12/1/10

Approximately 4,000 metric tons of scrubber sludge pursuant to notice dated 12/1/10

Approximately 120 tons of furnace clean up pursuant to notice dated 4/15/10

The proceeds will be distributed pursuant to the terms of the Asset Purchase and Processing Agreement entered into between the Estate of Chemetco and Industrial Asset Disposition, LLC, dated July 29, 2009, as amended by Order Approving and Clarifying the Asset Purchase and Processing Agreement entered May 4, 2010, as set forth in detail in the Motion to Pay Secured Creditor and Allocate Funds attached hereto.

ANY OBJECTIONS TO THE ALLOWANCE OF SAID MOTION MUST BE IN WRITING AND FILED WITH THIS COURT AT U. S. BANKRUPTCY COURT, 750 MISSOURI AVENUE, E. ST. LOUIS, IL 62201, ON OR BEFORE JULY 14, 2011, with a copy to the trustee, Donald M. Samson, 226 West Main Street, , Ste. 102, Belleville, IL 62220.

If no objections are filed with the trustee within the time set, said motion will be allowed and an appropriate order entered thereon.

In the event that written objections are submitted within the time provided in this notice, a hearing on said objections will be held on AUGUST 1, 2011, at 9:00 AM, U. S. Bankruptcy Court, Melvin Price U. S. Courthouse, 750 Missouri Avenue, East St. Louis, Illinois.

DATE: 6/23/11

DONALD M. SAMSON, Trustee
226 W. Main St., Ste. 102
Belleville, IL 62220
618-235-2226

RECEIVED

JUN 27 2011

ICPA-BOL-FSRS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

In Re:) IN CHAPTER 7 PROCEEDINGS
CHEMETCO, INC.)
Debtor.) BK 01-34066
)

MOTION TO PAY SECURED CREDITOR AND ALLOCATE FUNDS

Comes now Donald M. Samson, trustee, and files this motion to pay secured creditor and allocate funds and in support thereof shows as follows:

1. On December 1, 2010, Donald M. Samson, trustee, filed a notice of trustee's intent to sell approximately 4,000 metric tons of scrubber sludge and 3,500 metric tons of mixed fines free and clear of liens. No objections were filed within the notice period thereby authorizing the trustee to sell said materials within the parameters set forth in the notice.
2. Pursuant to said notice the trustee has entered into an agreement with H & H Metals to sell approximately 3,500 metric tons of mixed fines. The estate and H & H Metals are in the process of arranging shipping and loading of the materials.
3. The trustee is negotiating with several metal purchasers for the sale of the approximately 4,000 metric tons of scrubber sludge and anticipates entering into a sales agreement shortly.
4. On April 15, 2011, Donald M. Samson, trustee, filed a notice of trustee's intent to sell approximately 120 tons of furnace cleanup. No objections were filed within the notice period, thereby authorizing the trustee to sell said materials within the parameters set forth in the notice.
5. The trustee has entered into an agreement with Aurubis A.G. to sell said furnace cleanup within the parameters set forth in the notice and said materials have been shipped to Aurubis A.G..
6. Laura K. Grandy, the prior trustee, entered into an asset purchase and processing agreement with Industrial Asset Disposition, LLC (IAD), dated July 29, 2009, as amended by the order approving and clarifying the asset purchase and processing agreement entered by the U.S. Bankruptcy Court on May 4, 2010.
7. The asset purchase and processing agreement as amended sets forth a formula for allocation and distribution of the proceeds of the sale of materials sold pursuant to the agreement.
8. The anticipated revenues from the sales of the mixed fines, scrubber sludge and furnace cleanup is estimated at approximately \$3.5 million. The exact revenues will depend on the measured amounts sold and final assays to determine the percentage of copper and tin in the materials.
9. The formula provides for payment of expenses from the sale proceeds to arrive at the processing revenue:
 - a) Operating expenses to buyer - 30%
 - b) Estate's unreimbursed operating expenses and trustee fees including reserve for future expenses to insure funds for on-going operating expenses.

10. The resulting processing revenue is then allocated as follows:

- a) Escrow for future environmental clean up – 5%
- b) Payment to buyer - 25%
- c) Payment to estate to be applied to the purchase price – 35%
- d) Payment to Commerce Bank secured claim – 35%

11. Pursuant to the formula set forth in the agreement based on the estimated revenues the proceeds are to be distributed as follows:

Gross revenue – from sale of scrubber sludge, mixed fines and furnace clean up	\$3,500,000.00
Buyer fixed fee for operating expenses 30% - per Motion to Clarify Asset Purchase and Processing Agreement	1,050,000.00 ¹
Seller operating expenses – as defined on page 23 of the Asset Purchase and Processing Agreement ²	785,217.90 ³
Seller reserve for operating expenses – reserved pursuant to Section 6.1(f) ⁴ of the asset Purchase and Processing Agreement	.00
Processing revenue – gross revenue less operating expenses	1,664,782.10

Allocation of Processing Revenue Pursuant to Sect. 4.4(a) of Asset Purchase and Processing Agreement

Escrow funds – 5%	\$83,329.10
Buyer – 25%	416,195.52
Seller – 35%	582,673.74
Commerce Bank – 35%	582,673.74 ⁵

12. That pursuant to agreement with Commerce Bank, seller agrees to defer \$100,000.00 of the expense reimbursement, said \$100,000.00 to be applied to the secured claim of Commerce Bank. This agreement does not

¹ Actual payment to buyer reduced by \$100,000.00 pursuant to agreement with Commerce Bank set forth in paragraph 13.

² Unreimbursed costs incurred by seller through March 2011, and trustee fees.

³ Actual payment to seller reduced by \$100,000.00 pursuant to agreement with Commerce Bank set forth in paragraph 12.

⁴ It is anticipated that with the reimbursement of costs and seller's share of the proceeds no additional reserve will be necessary. The trustee reserves the right to reserve additional funds from the gross revenue in the event said reserve is necessary to maintain the continued operation of the estate.

⁵ Actual payment to secured creditor Commerce Bank based on calculations set forth in paragraphs 12 and 13 will be \$782,673.43 pursuant to agreement between Commerce Bank, seller and buyer.

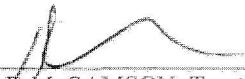
change the terms of the Asset Purchase and Processing Agreement as amended with the deferred expense reimbursement to be paid from future sales.

13. That pursuant to agreement with Commerce Bank, buyer agrees to defer \$100,000.00 of the operating expense payments, said \$100,000.00 to be applied to the secured claim of Commerce Bank. This agreement does not change the terms of the Asset Purchase and Processing Agreement as amended with the deferred expenses to be paid from further sales.

14. The trustee requests authority to distribute funds from the aforementioned sales as funds are received by the estate in accordance with the formula for distribution of funds set forth herein.

15. The trustee will file periodic reports of sale including a report of the distribution of funds.

WHEREFORE, Donald M. Samson, trustee, prays that this motion be granted, that he be authorized to allocate and distribute funds from the herein described sales as set forth herein and for such further relief as this Court deems just and equitable.



DONALD M. SAMSON, Trustee
226 W. Main St., Ste. 102
Belleville, IL 62220
618-235-2226
Fax: 618-235-0037